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OFFICE OF PETITIONS

In re Application of :
Allibhoy et al. :
Application Number: 10/788559 : DECISION ON PETITION
Filing Date: 02/26/2004 :
Attorney Docket Number: :
PU050096 :

This is a decision on the renewed petition under 37 CFR 1.137(b),¹ filed on March 19, 2008, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned on September 29, 2006, for failure to timely file a proper reply to the final Office action

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114.

In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

mailed on June 28, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on July 13, 2007. The petition filed on September 19, 2007, was dismissed because the amendment after final filed with the petition failed to place the application in condition for allowance.

The present petition is accompanied by a Request for Continued Examination (RCE) and the required fee. Petitioner requests the previous amendment after final be treated as the submission required under 37 CFR 1.114.

The application is referred to Technology Center Art Unit 2157 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

A handwritten signature in black ink, appearing to read "D Wood".

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions